



September 30, 2019

**VIA ECF**

Hon. Dennis M. Cavanaugh  
Special Master  
McElroy, Deutsch, Mulvaney & Carpenter LLP  
1300 Mount Kemble Avenue  
Morristown, NJ 07962-2075

Re: *In re Valeant Pharmaceuticals International, Inc. Securities Litigation*, Master  
File No. 15-cv-07658 (MAS) (LHG); *In re Valeant Pharmaceuticals  
International, Inc. Third-Party Payor Litigation*, No. 16-cv-03087 (MAS) (LHG)

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Dear Judge Cavanaugh:

We write on behalf of all parties in the Securities Actions (the "Securities Parties") and the Third-Party Payor Class Action (the "TPP Parties") (collectively, the "Responding Parties") in response to Judge Shipp's September 10, 2019 order appointing you as Special Master in the above-referenced actions and directing the parties to identify any pending disputes and issues (No. 15-cv-07658, ECF No. 484; No. 16-cv-03087, ECF No. 147).

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**A. Pending Issues & Disputes – Securities Class Action**

The following issues are pending in the Securities Class Action, *In re Valeant Pharmaceuticals International, Inc. Securities Litigation*, No. 15-cv-07658, listed in order of priority:

BOSTON  
  
HARTFORD  
  
STAMFORD  
  
NEW YORK  
  
NEWARK  
  
EAST BRUNSWICK  
  
PHILADELPHIA  
  
WILMINGTON  
  
WASHINGTON, DC

1. No schedule has been set by the Court in the Securities Actions. The Securities Parties have proposed a Joint Discovery Plan to cover the Securities Class Action and Securities Opt-Out Litigations and request that the proposed plan, attached herewith as Exhibit 1, be entered. The parties are, of course, available to answer any questions Your Honor may have about this schedule.
2. On July 29, 2019, certain defendants in the Securities Class Action,<sup>1</sup> moved to certify the Court's order denying their motion to dismiss the First Amended Consolidated Complaint for immediate appeal (ECF No. 474). On August 20, 2019, Plaintiffs opposed the motion (ECF No. 482), and on August 27, 2019 the moving defendants submitted a reply in response (ECF No. 483). Plaintiffs and the VAC Defendants respectfully request that Your Honor issue a report and recommendation on this motion.

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<sup>1</sup> ValueAct Capital Management L.P.; VA Partners I, LLC; ValueAct Holdings, L.P.; ValueAct Capital Master Fund, L.P.; ValueAct Co-Invest Master Fund, L.P; and Jeffrey Ubben (the "VAC Defendants").

September 30, 2019  
Page 2

3. On April 12, 2019, the Court issued a Letter Opinion & Order granting Class Plaintiffs' motion to compel non-party Philidor RX Services, LLC and related Philidor network pharmacies and entities (the "Philidor Entities") to produce documents. ECF No. 441. Class Plaintiffs subsequently requested an order compelling the Philidor Entities' compliance with the Letter Opinion & Order. See ECF Nos. 452-454. That motion was never ruled on but the Philidor Entities have started producing documents. Although Class Plaintiffs do not believe any action is required at this time, they may request additional enforcement of the Letter Opinion & Order once they have had an opportunity to review the Philidor Entities' production.

#### **B. Pending Issues & Disputes – Securities Opt-Out Litigations**

The parties in the Securities Opt-Out Litigations have conferred and identified the following pending issues and disputes, listed in order of priority:

1. As indicated above, the Securities Parties request that the proposed Joint Discovery Plan attached herewith as Exhibit 1, covering the Securities Class Action and Securities Opt-Out Litigations, be entered.
2. On September 24, 2019, the parties to *Northwestern Mutual Life Insurance Co., et al. v. Valeant Pharmaceuticals International, Inc., et al.*, No. 18-cv-15286 submitted a Stipulation and Proposed Order regarding the defendants' answers to the complaint (ECF No. 54). The parties respectfully request that the Proposed Order be entered.
3. Stipulations and proposed confidentiality orders have been submitted in *Colonial First State Investments Limited, et al. v. Valeant Pharmaceuticals International, Inc., et al.* (No. 18-cv-00383, ECF No. 24); *Ahuja, et al. v. Valeant Pharmaceuticals International, Inc., et al.* (No. 18-cv-00846, ECF No. 22); and *Prudential Ins. Co. of Am., et al. v. Valeant Pharmaceuticals International, Inc., et al.* (No. 18-cv-01223, ECF No. 35). The parties to those actions respectfully request that these Proposed Orders be entered.
4. Defendants' Motion to Dismiss the Amended Complaint in *Catalyst Dynamic Alpha Fund et al. v. Valeant Pharmaceuticals International, Inc., et al.*, No. 18-cv-12673 (ECF No. 58) will be fully briefed on October 14, 2019. No action is required at this time.
5. Defendants believe that Judge Shipp's recent decision in *Northwestern Mutual Life Ins. Co., et al. v. Valeant Pharmaceuticals International, Inc., et al.*, No. 18-cv-15286 (ECF No. 52) requires dismissal of Counts I–III of Plaintiffs' Amended Complaint in *Lord Abbett Investment Trust-Lord Abbett Short Duration Income Fund, et al. v. Valeant Pharmaceuticals International, Inc., et al.*, No. 17-cv-06365. If the parties are unable to reach agreement after conferring, Defendants intend to file a motion to dismiss those claims pursuant to Federal Rule of Civil Procedure 12(c). No action is required at this time.

September 30, 2019  
Page 3

6. Defendants believe that Judge Shipp's recent decisions in *Northwestern Mutual Life Ins. Co., et al. v. Valeant Pharmaceuticals International, Inc., et al.*, No. 18-cv-15286 (ECF No. 52) and *Aly v. Valeant Pharmaceuticals International, Inc., et al.*, No. 18-cv-17393 (ECF No. 49) require dismissal of Counts VI–VIII of Plaintiffs' Complaint in *Hound Partners Offshore Fund LP, et al. v. Valeant Pharmaceuticals International, Inc. et al.*, No. 18-cv-08705. If the parties are unable to reach agreement after conferring, Defendants intend to file a motion to dismiss those claims pursuant to Federal Rule of Civil Procedure 12(c). No action is required at this time.
7. On September 27, 2019, the parties to *The Boeing Company Employee Retirement Plans Master Trust and the Boeing Company Employee Savings Plans Master Trust v. Valeant Pharmaceuticals International, Inc., et al.*, No. 17-cv-07636 submitted a Stipulation and Proposed Order regarding dismissal of certain claims (ECF No. 126). The parties respectfully request that the Proposed Order be entered.

#### **C. Pending Disputes – Third-Party Payor Class Action**

The TPP Parties have conferred and identified the following pending disputes:

1. On September 24, 2019, Plaintiffs requested leave to file a single brief of no more than 70 pages in opposition to Defendants' Motions to Dismiss Plaintiffs' Amended Consolidated Class Action Complaint. On September 25, 2019, defendants Philidor Rx Services, LLC ("Philidor"), Andrew Davenport, and Estate of Matthew Davenport opposed Plaintiffs' request. Plaintiffs, Philidor, Andrew Davenport, and Estate of Matthew Davenport respectfully request that Your Honor issue a decision regarding Plaintiffs' request.
2. Defendants' Motions to Dismiss Plaintiffs' Amended Consolidated Class Action Complaint (No. 16-cv-3087, ECF Nos. 144–146) will be fully briefed on October 25, 2019. Defendants Philidor, Andrew Davenport, and Estate of Matthew Davenport believe that no discovery or other matters require scheduling until after Your Honor has issued a report and recommendation on the pending motions and the time for responses to that report and recommendation has run. The TPP Parties reserve the right to seek Your Honor's intervention regarding discovery and other pretrial issues that may arise during the pendency of Defendants' Motions to Dismiss. No action is required at this time.

#### **D. Confidentiality and Protective Orders**

Pursuant to Paragraph 15 of Judge Shipp's September 10, 2019 Order (No. 15-cv-07658, ECF No. 484), enclosed herewith as Exhibits 2–8 are the Confidentiality Orders entered in *In re Valeant Pharmaceuticals International, Inc. Securities*

September 30, 2019  
Page 4

*Litigation*, No. 15-7658 (ECF Nos. 244, 429) and by certain parties to the Securities Actions on January 19, 2018 (No. 16-cv-05034, ECF No. 89; No. 16-cv-06127, ECF No. 85; No. 16-cv-06128 ECF No. 83; No. 16-cv-07212, ECF No. 82; No. 17-cv-07552, ECF No. 42; No. 16-cv-07321, ECF No. 74; No. 16-cv-07324, ECF No. 74; No. 16-cv-07328; ECF No. 74, No. 16-cv-07494, ECF No. 75; No. 16-cv-07496, ECF No. 75; No. 16-cv-07497, ECF No. 80; No. 17-cv-06513, ECF No. 48; No. 17-cv-07625, ECF No. 69; No. 17-cv-07636, ECF No. 71; No. 17-cv-06365, ECF No. 70; No. 17-cv-12808, ECF No. 19; No. 17-cv-13488, ECF No. 19), February 21, 2018 (No. 18-cv-00032, ECF No. 42), April 26, 2018 (No. 18-cv-00343, ECF No. 39), February 5, 2019 (No. 17-cv-12088, ECF No. 67), and August 12, 2019 (No. 18-cv-00089, ECF No. 53; No. 18-cv-00893, ECF No. 55; No. 18-cv-08595, ECF No. 79). The Securities Parties respectfully request that Your Honor consent to be bound by these Confidentiality Orders, as well as the stipulations and proposed orders referenced in point A.3 above.

**E. Procedural Matters**

In addition to the pending issues and disputes referenced above, the Responding Parties respectfully request that Your Honor provide guidance regarding how motions are to be brought before Your Honor and filed with the Court in light of the Court's administrative termination of the *In re Valeant Pharmaceuticals International, Inc. Securities Litigation* and *In re Valeant Pharmaceuticals International, Inc. Third-Party Payor Litigation* matters, as well as all associated cases that have been coordinated or consolidated with these matters. (No. 15-cv-07658, ECF No. 484; No. 16-cv-03087, ECF No. 147).

We thank Your Honor for your attention to these matters.

cc: All Counsel of Record (via ECF)

Enclosures

September 30, 2019  
Page 5

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Page 6

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September 30, 2019  
Page 7

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September 30, 2019  
Page 8

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September 30, 2019  
Page 9

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September 30, 2019  
Page 10

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September 30, 2019  
Page 11

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